

Jay
U. S. DISTRICT COURT
WESTERN DISTRICT OF LOUISIANA
FILED

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF LOUISIANA
LAFAYETTE DIVISION

MAR 10 2003

ROBERT H. SHEMWELL, CLERK
BY *[Signature]* DEPUTY

VOICESTREAM WIRELESS CORP.

Civil Action No. 02-1614

versus

Judge Melancon

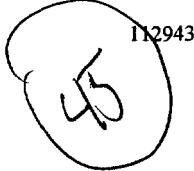
AERIAL WAVE, L.L.C., et al

Magistrate Judge Hill

STATEMENT OF UNCONTESTED MATERIAL FACTS

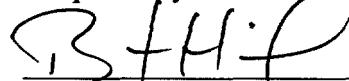
Pursuant to Local Rule 56.1, Texcom Wireless, Ltd. (“Texcom”), through undersigned counsel, submits this Statement of Uncontested Material Facts as to which there is no genuine issue:

1. TWR Freqs, L.L.C., (“TWR”) as general contractor, and Voicestream Wireless Corp. (“Voicestream”), as owner entered into a contract for the construction of that telecommunication tower known as Voicestream Tower - Ken Miller #126 located in Port Barre, Louisiana (“the Project”).
2. On September 25, 2001, TWR, as general contractor, entered into a contract with Texcom, as subcontractor, to perform the foundation work on the Project for a price of \$61,000.
3. Texcom completed all work timely and in a workmanlike manner as required by the September 25, 2001 contract.
4. TWR failed to pay Texcom the \$61,000.00 due for the work it performed on the project despite amicable demand.
5. As a result of TWR’s failure to pay, Texcom was forced to file suit to collect the funds due.



6. Texcom filed suit against TWR in the District Court of Cleveland County, State of Oklahoma, in that matter entitled *Texcom Wireless, Ltd. v. TWR Freqs, L.L.C.*, case number CJ-2002-9(L). Judgment was entered on March 18, 2002.
7. On April 18, 2002, Texcom filed a Petition to Make Executory a Foreign Judgment in the 19th Judicial District Court, Parish of East Baton Rouge, State of Louisiana in that matter entitled *Texcom Wireless, Ltd. v. TWR Freqs, L.L.C.*, Suit No. 494,521 "D".
8. On May 3, 2002, judgment was entered making the Oklahoma judgment executory in the State of Louisiana.
9. On May 28, 2002, Texcom filed a Petition for Garnishment under Writ of Fieri Facias naming Voicestream as garnishee which sought to recover from Voicestream the full amount due under the judgment, which at the time was \$84,716.20.
10. Voicestream was served with the garnishment interrogatories on June 12, 2002.
11. On July 26, 2002, Voicestream filed an answer to the garnishment interrogatories.
12. On July 31, 2002, Voicestream brought this matter by filing a complaint in interpleader and deposited into the registry of the court \$121,319.89 which represents the balance due under its agreement with TWR.

Respectfully submitted:



M. Brent Hicks, LSBA No. 23778
McGLINCHEY STAFFORD, PLLC
One American Place, 9th floor
Baton Rouge, LA 70825
Telephone: (225) 383-9000
Facsimile: (225) 343-3076

CERTIFICATE

I hereby certify that a copy of the above and foregoing Statement of Uncontested Material Facts has been mailed via U.S. Mail, postage prepaid, to the following:

Robert W. Mouton, Esq.
Adam B. Zuckerman, Esq.
LOCKE, LIDDELL & SAPP
601 Poydras Street, Suite 2400
New Orleans, LA 70130-6036

Gary J. Giepert, Esq.
RICCI & GIEPERT
FNBC Building
210 Baronne Street, Suite 1623
New Orleans, Louisiana 70112

Kirk A. Patrick, III, Esq.
Crawford & Lewis
Post Office Box 3656
Baton Rouge, Louisiana 70821-3656

Marvin E. Owen, Esq.
Attorney at Law
3036 Brakley Drive
Baton Rouge, LA 70816

Patrick J. Hanna, Esq.
Kay Karre' Gautreaux, Esq.
RABALAIS, HANNA & HEBERT
701 Robley Drive, Suite 210
Lafayette, LA 70503

Paul A. Lea, Jr.
Attorney at Law
27 S. Azalea Drive
Covington, LA 70433-9159

Joseph E. Stockwell, III
Attorney at Law
619 Jefferson Highway, Suite 1-D
Baton Rouge, LA 70806

Charles A. Riddle, III
Riddle Law Offices
Post Office Box 608
Marksville, LA 71351

Oscar W. Boswell, II
Attorney at Law
Post Office Box 3207
Lafayette, LA 70502-3207

Baton Rouge, Louisiana this 7 day of March, 2003.



M. Brent Hicks

McGLINCHEY STAFFORD PLLC

M. BRENT HICKS
 (225) 382-3622
 Fax (225) 343-3076
 bhicks@mcglinchey.com

BATON ROUGE
 NEW ORLEANS
 HOUSTON
 JACKSON
 CLEVELAND
 MONROE

RECEIVED

MAR 10 2003

March 7, 2003

ROBERT H. SHEMMELL, CLERK
 WESTERN DISTRICT OF LOUISIANA
 LAFAYETTE, LOUISIANA

Honorable Catherine B. Carter
 Deputy Clerk-in-Charge
 UNITED STATES DISTRICT COURT
 WESTERN DISTRICT OF LA
 800 Lafayette Street
 Lafayette, LA 70501

Re: VoiceStream Wireless Corporation v. Aerial Wave, LLC et al.,
 United States District Court, Western District (Lafayette)
 Civil Action No. 02-1614
 Our File No: 19930.0001

Dear Ms. Carter:

Enclosed is the original and two copies of a Motion for Partial Summary Judgment, Memorandum in Support and Statement of Uncontested Facts with regard to the above captioned matter. Please file the originals into the record of this matter and return one (1) conformed copy of each to me in the enclosed self-addressed stamped envelope. *done/nov*

Thank you for your attention to this matter. Please do not hesitate to call with any questions.

Sincerely,

McGLINCHEY STAFFORD, PLLC



M. Brent Hicks

MBH/std
 Enclosures
 cc: Ben Benedum, Esq.
 Dale Whittenberg
 All Counsel of Record